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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,170	08/30/2006	Jari Rasanen	0696-0250PUS1	6057

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BIRCH STEWART KOLASCH & BIRCH  
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EXAMINER
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ELKINS, GARY E

ART UNIT	PAPER NUMBER
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3782

NOTIFICATION DATE	DELIVERY MODE
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12/29/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/591,170	<b>Applicant(s)</b> RASANEN ET AL.	
	<b>Examiner</b> Gary E. Elkins	<b>Art Unit</b> 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060830</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

1. It is noted that the preliminary amendment filed in this application is improper insofar as the status identifier "previously presented" with respect to claims 1 and 2 is incorrect and the claims being submitted do not include underlining and strikethrough to show additions and deletions relative to the originally filed claims. Claims 1 and 2 as set forth in the amendment were not received in any other amendment in the application. As such, examination has been made with respect to the originally filed claims.

#### ***Claim Objections***

2. Claims 4-13 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim must refer back to the previous claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims 4-13 have not been further treated on the merits.

#### ***Claim Rejections - 35 USC § 112***

3. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 3 and 4, "its mouth" and "the skirt" each lack antecedent basis in the claim.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heyn (US 2006/0191940) (figs. 7-9 embs.) in view of Kleemola (US 5,236,120). Heyn discloses all structure of the claimed package except formation of the package from a fibre-based material. Kleemola teaches that it is known to make a sealed package using fiber-based material. It would have been obvious to substitute a fiber based material for the molded plastic in the package of Heyn as taught by Kleemola since fiber based materials are readily available and cheaper to produce.

### *Conclusion*

The remaining cited prior art is illustrative of the general state of the art.

Any inquiry related this office action or any other office action for this application should be directed to Examiner Gary Elkins at the number listed below. Normal work days are Mon, Wed and Fri.

If the Examiner is unavailable and you need to talk to someone sooner, the Examiner's supervisor, Mr. Nathan Newhouse may be contacted at the number listed below.

Information regarding the status of an application may also be obtained by accessing the PAIR system. Information about the PAIR system can be obtained at the website <http://pair-direct.uspto.gov> or by contacting the Electronic Business Center (EBC) at (866) 217-9197 (toll free). You may also contact a USPTO Customer Service Representative or access the automated information system at 1-800-786-9199 (in USA or Canada) or 1-571-272-1000.

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